IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Chapter VIII, Rule 32(2) (b)
Description of case

Writ Petition No. 926 of 2001

Date of decision: 09.09.2003

For the approval of:

Hon'ble Chief Justice S.H. Kapadia.

Hon'ble Mr. Justice Rajesh Tandon, J.

- Whether the order/judgment should be sent to the reporters for reporting? (Yes)

- Whether the reporters be allowed to see the judgment? (Yes)

(N. C. Melkani)
P.S.

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 926 (S/B) 2001

Maj Gen. Amrik Singh,]
Director General Military Operations,]
Geographical Section General Staff,]
Army HQS Plot. No. 108 (West Side)]
Church Road, New Delhi 10001. ……..]Petitioner

Vs.

1. The Union of India through Secretary,]
Ministry of Science & Technology,]
Technology Bhawan,]
New Mehrauli Road, New Delhi.]
2. The Union Public Service Commission]
Through Its Chairman, Dholpur House,]
New Delhi.]
3. The Surveyour General of India,]
Post Box No. 37, Dehradun.]
4. Sri P. Nag, Director Natmo,]
CGO Complex, VIIth Floor, D.F.Bolck,]
Salt Lake, Kolkata 700064. ……..]Respondents

Mr. Narayan Datt, Advocate for the petitioner.
Mr. G.S. Bisht, Senior Standing Counsel (Govt. of India), for respondents.

Coram: Hon'ble S.H. Kapadia, C.J.
Hon' ble Rajesh Tandon, J.

Dated: 09.09.2003:

ORIA JUDGMENT [Per Hon. Chief Justice**]**

The post of Surveyor General of India in Survey of India fell vacant on 15th December 2001. According to Schedule IV of 1989 Rules, the post was required to be filled up by way of promotion from Senior Administrative Grade in Civil/Defence stream with there years' regular service failing which the post of Surveyor General of India was required to be filled by direct recruitment or deputation or transfer after consultation with U.P.S.C. Petitioner- Maj. General Amrik Singh has filed this petition stating that he was holding the post of Additional Surveyor General in the Senior Administrative Grade and, therefore, he was entitled to promotion to the post of Surveyor

General of India. By way of counter affidavit filed on behalf of Survey of India, it has been submitted that the petition was not holding the post of Additional Surveyor General. That, the last Addl. Surveyor General was retired on 31st August 2001. That, since 1st September 2001, the post of Addl. Surveyor General was vacant. Therefore, under the Rules, respondent No. 4 has been appointed to the post of surveyor general of India in consultation with U.P.S.C., because, under the Rules, the post of Surveyor General of India could be filled by transfer, deputation or direct recruitment.

When the writ petition came for admission, the Court inquired as to why the petitioner has not moved before the Central Administrative Tribunal. In reply, it was argued that in view of the judgment of the Full Bench of Central Administrative Tribunal in the case of Sri A.R. Sharma Vs. Union of India, reported in 1991, 16 Administrative Tribunal Cases page-76, the petition was not maintainable before Central Administrative Tribunal. We do not find any merit in this argument, In that judgment two points came for consideration namely, whether Survey of India was an Armed force of the union and secondly, whether a Civilian, working in the Armed Force of the Union and secondly, whether a Civilian, working in the Armed Forces, in the Clerical Grade was barred from invoking the jurisdiction of Central Administrative Tribunal, in view of Section 2 (a) of Administrative Tribunals Act 1985. It was held by the Full Bench of Central Administrative Tribunal, Bengalore that Survey of India was not an Armed Force of the Union and that Civilian employees in the Armed Forces are not covered U/s 2(a) of Administrative Tribunals Act and, therefore, they can invoke Section 14 of Administrative Tribunals Act, 1985. Now in the present case, the petitioner seeks appointment to the post of Surveyor General of India. It is a post in the establishment of Survey of India. Respondent No.4 has been appointed as Surveyor General of India pursuant to public advertisement. Petitioner seeks to challenge that appointment. In the circumstances, the present petition will lie before the Central Administrative Tribunal. The judgment in the case of A.R. Sharma

(Supra.), indicates that the post of Surveyor General of India in Survey of India, is not a post in the Armed Forces. Hence the present dispute will lie before Central Administrative Tribunal. Apart from the judgment in A. R. Sharma's case (Supra.) Section 14 of Administrative Tribunals Act, 1985 shows that all matters concerning recruitment to all India Services and all matters concerning recruitment to any Civil Services of the Union of India and all matters concerning recruitment to the Civil post under Union of India shall lie before Central Administrative Tribunal. Therefore, Survey of India and post of SOI thereunder comes within Section 14 of the Act.

IN the Circumstances, we are directing the Registrar General to transfer this writ petition alongwith records and proceedings to the Central Administrative Tribunal, Allahabad.

Accordingly, writ petition is disposed of.

(Rajesh Tandon, J.) **(S.H. Kapadia, C.J.)**

Melkani: